

109TH CONGRESS  
2D SESSION

# S. 3972

To amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children’s Health Insurance Program (SCHIP) for fiscal year 2007.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children’s Health Insurance Program (SCHIP) for fiscal year 2007.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fiscal Accountability,  
5       Integrity, and Responsibility in SCHIP Act of 2006” or  
6       the “FAIR-SCHIP Act of 2006”.

1 **SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS**  
 2 **FOR FISCAL YEAR 2007.**

3 (a) IN GENERAL.—Section 2104 of the Social Secu-  
 4 rity Act (42 U.S.C. 1397dd) is amended by adding at the  
 5 end the following new subsection:

6 “(h) SPECIAL RULES TO ADDRESS FISCAL YEAR  
 7 2007 SHORTFALLS.—

8 “(1) INITIAL DOWN PAYMENT ON SHORTFALL  
 9 FOR FISCAL YEAR 2007.—The provisions of sub-  
 10 section (d) shall apply with respect to fiscal year  
 11 2007 in the same manner as they apply to fiscal  
 12 year 2006, except that, for purposes of this para-  
 13 graph—

14 “(A) any reference to ‘fiscal year 2006’,  
 15 ‘December 16, 2005’, ‘2005’, ‘2004’, ‘Sep-  
 16 tember 30, 2006’ and ‘October 1, 2006’ shall  
 17 be deemed a reference to ‘fiscal year 2007’,  
 18 ‘December 16, 2006’, ‘2006’, ‘2005’, ‘Sep-  
 19 tember 30, 2007’ and ‘October 1, 2007’ respec-  
 20 tively;

21 “(B) there shall be substituted for the dol-  
 22 lar amount specified in subsection (d)(1), and  
 23 shall be treated as the amount appropriated  
 24 under such subsection, \$450,000,000;

25 “(C) paragraphs (3)(B) and (4) of sub-  
 26 section (d) shall not apply (and paragraph (4)

1 of this subsection shall apply in lieu of para-  
 2 graph (4) of such subsection);

3 “(D) if the dollar amount specified in sub-  
 4 paragraph (B) is not at least equal to the total  
 5 of the shortfalls described in subsection (d)(2)  
 6 (as applied under this paragraph), the amounts  
 7 under subsection (d)(3) (as applied under this  
 8 paragraph) shall be ratably reduced.

9 “(2) FUNDING REMAINDER OF SHORTFALL FOR  
 10 FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF  
 11 CERTAIN UNUSED FISCAL YEAR 2005 ALLOT-  
 12 MENTS.—

13 “(A) IN GENERAL.—Subject to subpara-  
 14 graph (C), the Secretary shall provide for a re-  
 15 distribution under subsection (f) from amounts  
 16 made available for redistribution under para-  
 17 graph (3), to each shortfall State described in  
 18 subparagraph (B) that is one of the 50 States  
 19 or District of Columbia, such amount as the  
 20 Secretary determines will eliminate the esti-  
 21 mated shortfall described in such subparagraph  
 22 for the State.

23 “(B) SHORTFALL STATE DESCRIBED.—For  
 24 purposes of this paragraph, a shortfall State  
 25 described in this subparagraph is a State with

1 a State child health plan approved under this  
2 title for which the Secretary estimates, on the  
3 basis of the most recent data available to the  
4 Secretary as of March 31, 2007, that the pro-  
5 jected expenditures under such plan for such  
6 State for fiscal year 2007 will exceed the sum  
7 of—

8 “(i) the amount of the State’s allot-  
9 ments for each of fiscal years 2005 and  
10 2006 that will not be expended by the end  
11 of fiscal year 2006;

12 “(ii) the amount, if any, that is to be  
13 redistributed to the State during fiscal  
14 year 2007 in accordance with subsection  
15 (f) (other than under this paragraph);

16 “(iii) the amount of the State’s allot-  
17 ment for fiscal year 2007; and

18 “(iv) the amount of any additional al-  
19 lotment to the State under paragraph (1).

20 “(C) PRORATION RULE.—If the amounts  
21 available for redistribution under paragraph (3)  
22 are less than the total amounts computed under  
23 subparagraph (A), the amount computed under  
24 subparagraph (A) for each shortfall State shall  
25 be reduced proportionally.

1           “(3) TREATMENT OF CERTAIN STATES WITH  
2           FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT  
3           THE END OF THE FIRST HALF OF FISCAL YEAR  
4           2007.—

5           “(A) IDENTIFICATION OF STATES.—The  
6           Secretary—

7                   “(i) shall identify those States that re-  
8                   ceived an allotment for fiscal year 2005  
9                   under subsection (b) which have not ex-  
10                  pended all of such allotment by March 31,  
11                  2007; and

12                  “(ii) for each such State shall deter-  
13                  mine—

14                          “(I) the portion of such allotment  
15                          that was not so expended by such  
16                          date; and

17                          “(II) whether the State is a de-  
18                          scribed in subparagraph (B).

19           “(B) STATES WITH FUNDS IN EXCESS OF  
20           200 PERCENT OF NEED.—A State described in  
21           this subparagraph is a State for which the Sec-  
22           retary determines, as of March 31, 2007, the  
23           total of all available allotments under this title  
24           as of such date, is at least equal to 200 percent

of the total projected expenditures under this title for the State for fiscal year 2007.

“(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY.—

“(i) APPLICATION TO PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the percentage specified by the Secretary in clause (ii) of the amount described in subparagraph (A)(ii)(I) shall not be available for expenditure on or after April 1, 2007.

“(ii) PERCENTAGE SPECIFIED.—The Secretary shall specify a percentage which—

“(I) does not exceed 75 percent;

and

“(II) when applied under clause (i) results in the total of the amounts under such clause equaling the total of the amounts under paragraph (2)(A).

1           “(4) USE OF ADDITIONAL ALLOTMENT.—Addi-  
2           tional allotments provided under this subsection are  
3           only available for amounts expended under a State  
4           plan approved under this title for child health assist-  
5           ance for targeted low-income children or child health  
6           assistance or other health benefits coverage for preg-  
7           nant women.

8           “(5) RETROSPECTIVE ADJUSTMENT.—The Sec-  
9           retary may adjust the determinations made under  
10          paragraphs (2) and (3) as necessary on the basis of  
11          the amounts reported by States not later than No-  
12          vember 30, 2007, on CMS Form 64 or CMS Form  
13          21, as the case may be and as approved by the Sec-  
14          retary, but in no case may the percentage specified  
15          in paragraph (3)(C)(ii) exceed 75 percent.

16          “(6) 1-YEAR AVAILABILITY; NO REDISTRIBU-  
17          TION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—

18               “(A) IN GENERAL.—Notwithstanding sub-  
19               sections (e) and (f), amounts allotted or redis-  
20               tributed to a State pursuant to this subsection  
21               for fiscal year 2007 shall only remain available  
22               for expenditure by the State through September  
23               30, 2007, and any amounts of such allotments  
24               or redistributions that remain unexpended as of  
25               such date, shall not be subject to redistribution

1 under subsection (f). Nothing in the preceding  
 2 sentence shall be construed as limiting the abil-  
 3 ity of the Secretary to adjust the determina-  
 4 tions made under paragraphs (2) and (3) in ac-  
 5 cordance with paragraph (5).

6 “(B) REVERSION UPON TERMINATION OF  
 7 RETROSPECTIVE ADJUSTMENT PERIOD.—Any  
 8 amounts of such allotments or redistributions  
 9 that remain unexpended as of September 30,  
 10 2007, shall revert to the Treasury on December  
 11 31, 2007.”.

12 (b) EXTENDING AUTHORITY FOR QUALIFYING  
 13 STATES TO USE CERTAIN FUNDS FOR MEDICAID EX-  
 14 PENDITURES.—Section 2105(g)(1)(A) of such Act (42  
 15 U.S.C. 1397ee(g)(1)(A)) is amended by striking “or  
 16 2005” and inserting “2005, 2006, or 2007”.

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